IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1454 OF 2007

Sharad S. Pardeshi ....Petitioner
V/s.
The State of Maharashtra & Ors. ....Respondents

Mr.R.K. Mendadkar for the Petitioner.

Mr.V.P. Malwankar, AGP for Respondent Nos.1 and 2.

CORAM : F.I. REBELLO &
R.M. SAVANT, JJ.
DATED : 29TH JUNE, 2007.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner claims as belonging to Pardeshi Bhamta, a notified tribe. It is the case of the Petitioner that his caste certificate was forwarded to the Committee for the purpose of verification. Before the Committee, the school record of the Petitioner's father were made available which shows the caste as Pardeshi. Similarly, in the school record, the Petitioner's caste shown as Pardeshi. However, in the service record of the Petitioner's father, the caste was shown as Pardeshi Bhamta. The home enquiry was conducted in which three witnesses

were examined. Those three witness deposed that they knew the father of the Petitioner and that they belong to Pardeshi Bhamta, N.T. The learned Committee proceeded on the footing that the Petitioner was not able to adduce any documentary evidence prior to 1961 to show that they belong to Pardeshi Bhamta, N.T. In so far as the evidence of the witnesses are concerned that was not considered on the ground that there is no substantial proof to establish the claim of the candidate. It is this order which is the subject matter of this Petition.

3. The absence of the documentary evidence by itself cannot be a ground either before the date when the caste was notified or after that to reject the claim of an applicant though it may be relevant fact while considering the totality of the evidence. In the instant case, the school records of the Petitioner’s father and the Petitioner show that they belong to Pardeshi. The only documentary evidence in favour of the Petitioner was the service record of his father which show as Pardeshi Bhamta. We agree with the Committee that the service by itself could not have been read in favour of the Petitioner.

4. However, a home enquiry was conducted in

which three witnesses have deposed, that the father of the Petitioner belongs to Pardeshi Bhamta, N.T. Considering the principles to be applied in appreciation of evidence, in civil proceeding, the test would be preponderance of evidence. It is true that before the Committee, a quasi-judicial body, the strict rules of evidence may not apply, but those principles would be applicable as the Committee is the last fact finding body. In other words, the Committee had to give reasons why the evidence could not be accepted. The only reasons given by the Committee is that, there was no substantive evidence. In our view, this could not have been the test. In the absence of the documentary evidence, the Committee was bound to consider traits and characteristics and other facts as to whether the Petitioner was able to establish that he belongs to Pardeshi Bhamta.

5. In our view, therefore, this would be a fit case to set-aside the impugned order of the Committee and remand the matter back to the Committee for reconsideration according to law and in terms of what we have set out herein. The Committee to decide the same within four months from today. The Petitioner to appear before the Committee on 10.7.2007. If the Petitioner is having any other documentary evidence,

it will be open to the Petitioner to produce the same and it is for the Committee to consider the same. In the event the Committee finds that the Petitioner's caste is valid, it will be open to the Petitioner to apply to the Bank for reinstatement considering that the services were terminated only on the ground that he was not able to prove his caste as Pardeshi Bhamta, N.T. Rule is accordingly made absolutely.

(R.M. SAVANT, J.) (F.I. REBELLO, J.)